

Art Unit: 3711

Election/Restrictions

1. Claims 47-51 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on August 21, 2008.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 27, 28, 30-34, 37-41 and 43-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The dependencies of these claims are unclear as they depend from canceled claims. It is noted that these claims were assumed to be intended to depend from claim 1 and examination was completed assuming such. Clarification is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 23-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitor et al. (3,119,618) in view of "Manual for the Rubber Industry". Regarding claims 1, 37, 39 and , Molitor discloses an inflated game ball comprising a cover (12), an inner carcass (11) and a sponge layer (15). Note column 2, lines 23-26 stating that the inner carcass may be formed

Art Unit: 3711

from any material commonly known and used in the art. The examiner takes Official Notice that polymer windings are a material that is commonly known and used in the art. It would have been obvious to one of ordinary skill in the art to form the inner carcass (11) from a layer of windings in order to properly reinforce the bladder of the ball. Further, note column 2, lines 31 and 32 of Molitor which teach that the cover may be formed from rubber.

"Manual for the Rubber Industry" reveals the manufacturing process for vulcanized urethane gum rubber and notes its advantages. Note page 175 which states that the vulcanized urethane gum rubber possesses "particularly good mechanical properties" and "wear resistance under many service conditions is better than that of other elastic materials". Thus, it would have been obvious to one of ordinary skill in the art to form the cover of Molitor from the material of the "Manual for the Rubber Industry" in order to take advantage of that material's physical characteristics. The particular thickness for the cover layer is considered to be obvious given the teachings of Molitor and the lack of a showing of the criticality for the recited range by a new and unexpected result obtained therefrom.

Regarding claims 23 and 32-34, the particular thickness for the cover layer is considered to be obvious given the teachings of Molitor and the lack of a showing of the criticality for the recited range by a new and unexpected result obtained therefrom.

Regarding claims 24-28 and 35, "Manual for the Rubber Industry" teaches the cross linking of the urethane with sulfur and the use of the other materials for forming the urethane.

Regarding claims 29-31, 38 and 40, Molitor teaches the use of an elastomeric sponge layer (15). The particular density for the foam is considered to be obvious lacking a showing of the criticality for the recited range by a new and unexpected result obtained therefrom. It would

Art Unit: 3711

have been obvious to one of ordinary skill in the art to form the sponge layer from a cured natural rubber in order to take advantage of that material's well known physical characteristics.

Regarding claim 36, note the rejection of claims 1 and 24.

Regarding claim 41, the particular thicknesses for the cover layer and inner layer are considered to be obvious given the teachings of Molitor and the lack of a showing of the criticality for the recited ranges by a new and unexpected result obtained therefrom.

Regarding claim 42, note the rejections of claims 1 and 31. The particular densities for the foam and vulcanized urethane rubber layer are considered to be obvious lacking a showing of the criticality for the recited ranges by a new and unexpected result obtained therefrom.

Regarding claims 43-46, note the rejections of claims 1 and 23.

6. Claims 1, 23-35, 37-41 and 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitor et al. (3,119,618) in view of "Manual for the Rubber Industry" and Sullivan (5,741,195). Regarding claims 1, 23, 32, 33, 41, 43 and 44, Sullivan teaches that it is well known in the art of game balls to form the cover panels with a thickness of about 0.60-3.0 mm and more preferably 1.5-2.3 mm. Note column 4, lines 63-65. It would have been obvious to one of ordinary skill in the art to form the cover of Molitor with the thicknesses as taught by Sullivan in order to provide a cover that is thick enough to provide a durable cover for the ball. The particular ranges are considered to be obvious given the teachings of Sullivan and the lack of a showing of the criticality for the particular ranges by the demonstration of a new and unexpected result obtained therefrom.

Art Unit: 3711

Regarding claims 24-31, 34-40, 42, 45 and 46, note the rejections set forth above as the combination of Molitor in view of "Manual for the Rubber Industry" teaches the recited limitations.

Res Judicata

7. Claims 1 and 23-46 are rejected under res judicata as being unpatentable over Molitor et al. (3,119,618) in view of "Manual for the Rubber Industry". Attention is directed to MPEP 706.03(w) which states that a rejection may be made on the grounds of res judicata where it is based on a prior adjudication, against the inventor on the same claim, a patentably nondistinct claim, or a claim involving the same issue. Here, a decision by the Board of Appeals was rendered in the parent application on September 9, 2003 affirming the rejection of claims 1-16 and 22. The claims of the parent application are either the same or patentably nondistinct from the claims of the instant application. Claims 36-42 of the instant application recite identical limitations as claims 11-16 and 22 of the parent application. Further, claims 1, 23-35 and 43-46 of the instant application are patentably nondistinct from claims 1-11 and 16 of the parent application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven Wong/
Primary Examiner, Art Unit 3711